

Statement of
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HB 2124
The Uniform Commercial Code Article 4A Amendment
Before the Senate Judiciary Committee
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Chairman and Members of the Committee:

Thank you for the opportunity to speak to you this afternoon about the HB 2124, a bill providing an amendment to UCC 4A-108. The amendment provides greater clarity regarding the law governing remittance transfers.

In Kansas, money transfers are governed under both state law and federal law. Various Articles of the Kansas Uniform Commercial Code, particularly Article 3, 4, 4A, and 5, govern money transactions, including transactions effectuated by means of negotiable instruments and letters of credit. Article 4A governs transfer of funds.

In 1978, Congress passed the Electronic Funds Transfer Act (EFTA) to subject electronic funds transfers involving consumer accounts to federal law. The Federal Reserve Board promulgated Regulation E, 12 C.F.R. Part 1005, to furnish a more detailed enforcement of the EFTA. Article 4A continues to govern funds transfers that do not qualify as electronic funds transfers or that do not involve consumer accounts. (A consumer is a natural person.)

In 2010, Congress passed the Dodd-Frank Wall Street Reform and Consumer Protection Act. This Act added a new section to the EFTA, 15 U.S.C. §1693o-1, to bring electronic remittance transfers under the EFTA.

Under §1693o-1 of the EFTA, a remittance transfer is defined as an electronic transfer of funds originating from a consumer in the United States to a recipient located in a foreign country. In sending money abroad, a consumer customer may use the services of a financial institution or some other person, called remittance transfer providers that provide such transfer services in the ordinary course of

business. The EFTA applies only if the originator of the remittance transfer is a consumer and the transfer is initiated by electronic means.

Consequently, the EFTA does not cover all remittance transfers. The proposed amendment to 4A-108 clarifies that remittance transfers outside the domain of EFTA shall be governed by Article 4A. For example, if the originator of a remittance transfer is a commercial customer, Article 4A will apply. If a consumer originates a remittance transfer by a non-electronic method, such as paying cash to the remittance transfer provider, Article 4A applies because the remittance transfer does not qualify as an electronic fund transfer.

There might be hybrid fund transfers that cannot be neatly categorized to fall under either EFTA or UCC. 4A. Some transactions may arguably fall under both the EFTA and 4A. In such cases, the proposed amendment restates the preemption principle in favor of the EFTA. *See also* 4A-107. The proposed amendment will also clarify the governing law if there is a mistake in the remittance transfer order, the identity of the foreign recipient is unverifiable, or a remittance transfer order is fraudulently initiated in a consumer account.

For these reasons I respectfully submit that the House Judiciary Committee vote to adopt the proposed amendment and vote in favor of HB 2114. Thank you very much for your attention. I will be happy to answer any questions that the Committee might have about the proposed amendment.